

REMARKS/ARGUMENTS

The Examiner's Action of June 15, 2004, has been received and reviewed by counsel for Assignee. In that Action claims 1-28 were rejected under 35 U.S.C. § 102 or § 103, based upon the cited references. Claims 29-38 have previously been withdrawn from consideration.

By this response counsel has significantly amended claims 1-28. In view of the amendments, counsel has canceled all claims, and rewritten and presented them herewith as new claims 37-58.

Claims 1 and 12-17 were rejected under Section 102(a) as anticipated by *Takeishi, et al.*, U.S. 6,425,801. Many remaining claims were rejected under Section 102 as anticipated by *Kakuchi, et al.*, U.S. 5,087,121.

The claims presented for examination now have been substantially revised to more clearly set forth the patentable distinctions between the claims and the cited references.

The *Takeishi, et al.*, is distinguishable from the claims presented herein because counsel does not believe it determines the thickness of the optically-transparent film. In *Takeishi, et al.*, at column 19 and continuing onto claim 20, the system described is used to monitor the end point of a polishing process by detecting spectral reflectants of first and second signals. *Takeishi, et al.*, does not appear to determine the thickness of the output optically-transparent film. Counsel has highlighted this distinction by using the term "calculating" in many of the independent claims to specify that the actual thickness of the film itself is determined.

With regard to the claims rejected under *Kakuchi, et al.*, counsel has made appropriate amendments to those rejected independent claims believed to distinguish *Kakuchi, et al.*

Furthermore, original claims 8 and 24, also rejected on this basis, now presented as new claims 44 and 60, are also believed to distinguish *Kakuchi, et al.* A claimed feature in those claims is determining measuring points which include both pattern area and nonpattern area. To determine that area, spectral data from the detected reflected light is used. This feature is not believed shown by *Kakuchi, et al.*

In view of the foregoing, counsel for Assignee believes all claims now pending in this application are in condition for allowance. The issuance of a Notice of Allowance is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, he is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,



Robert C. Colwell
Reg. No. 27,431

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 650-326-2400
Fax: 415-576-0300
RCC:mks
60373389 v1